

ITEM NO: _____

PREPARED BY: Christy L. Kinard

APPROVED BY: Christy L. Kinard
Assistant County Attorney

RESOLUTION BY THE BOARD OF COMMISSIONERS OF SHELBY COUNTY, TENNESSEE, REQUESTING THE MEMBERS OF THE TENNESSEE GENERAL ASSEMBLY SUPPORT LEGISLATION AMENDING TENNESSEE CODE ANNOTATED, TITLE 8, CHAPTER 44, RELATIVE TO THE OPEN MEETINGS REQUIREMENT FOR CIVIL SERVICE MERIT BOARDS. SPONSORED BY COMMISSIONER JOE FORD.

WHEREAS, pursuant to the Uniform Administrative Procedures Act, specifically Tenn. Code Ann. § 4-5-312(d), hearings of administrative contested cases must comply with the Open Meetings Act, Tenn. Code Ann., Title 8, Chapter 44; and

WHEREAS, pursuant to Opinion No. 88-0007 issued by the Shelby County Attorney's Office on December 16, 1988, a legislative amendment to Tenn. Code Ann. § 27-9-114 made the provisions of the Uniform Administrative Procedures Act (the "UAPA") applicable to civil service boards effective January 1, 1989; and

WHEREAS, pursuant to Opinion No. 09-001 issued by the Shelby County Attorney's Office on January 6, 2009, a legislative amendment to Tenn. Code Ann. § 27-9-114 exempted the hearings before county civil service boards organized under a home rule charter form of government from the provisions of the UAPA effective January 1, 1990; and

WHEREAS, it is the opinion of the Shelby County Attorney's Office that meetings of the Shelby County Civil Service Merit Board must comply with the open meetings requirement by virtue of the provisions of the Open Meetings Act; and

WHEREAS, the Shelby County Civil Service Merit Board desires to hold its deliberations in a closed meeting because the holding of private deliberations following a public adjudicatory hearing is consistent with the traditional practice of private deliberations by a jury and a court of law in a civil or criminal proceeding, and would ensure the unrestrained discussion of issues raised and evidence received during a public hearing; and

WHEREAS, the Board of County Commissioners of Shelby County, Tennessee believes that it is appropriate that a resolution be passed requesting the Tennessee General Assembly to amend Tenn. Code Ann., Title 8, Chapter 44 relative to the open meetings requirement so as to exempt the deliberations of civil service boards from the provision of the Open Meetings Act.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF SHELBY COUNTY, TENNESSEE, that this Board, after careful consideration hereby requests the Shelby County Legislative Delegation and members of the Tennessee General Assembly enact legislation amending Tennessee Code Annotated, Title 8, Chapter 44, relative to the open meetings requirement so as to exempt the deliberations of civil service boards from the provision of the Open Meetings Act.

BE IT FURTHER RESOLVED, that the Shelby County Legislative Delegation and members of the Tennessee General Assembly be made aware of this request by copy of this resolution.

BE IT FURTHER RESOLVED, that this resolution shall take effect immediately, the public welfare requiring the same.

A C Wharton, Jr., County Mayor

Date: _____

ATTEST:

Clerk of County Commission

ADOPTED: _____